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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,866	03/23/2004	Ted M. Dean	Tru Vision-002	5509
21897	7590	12/12/2005	EXAMINER	
THE MATTHEWS FIRM 2000 BERING DRIVE SUITE 700 HOUSTON, TX 77057			AHMAD, NASSER	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/807,866

Applicant(s)

DEAN ET AL.

Examiner

Nasser Ahmad

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Rejections Maintained***

1. Claims 1-4, 6 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Repaci (6109582).
2. Claims 5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Repaci.

### ***Response to Arguments***

3. Applicant's arguments filed September 19, 2005 and August 9, 2005 have been fully considered but they are not persuasive.

Applicant argues that the Repaci reference fails to teach laminating the adhesive strips to the plastic strips or how the adhesive strips are attached to the plastic strip. This is not found to be convincing because the method of making the display strip is not germane to the issue of patentability of the product display strip itself. For example, claim 1 is directed to a display strip having the claimed structure and not a method of making the claimed product as alleged.

Applicant also argues that Repaci fails to teach about claim 3 which calls for the plastic strip to have a coated side and an uncoated side. This is not deemed to be persuasive because, as mentioned in the last Office Action of May 10, 2005, the coated side of Repaci's display strip is taken to be the side coated with the release paper (38) and the opposite side of the strip is taken to be the uncoated side. Contrary to applicant's

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position, the claims do not mention that the overlying strip, as shown in figure-7 of Repaci, is not required.

Applicant's argument that claim 1 has been amended, compared to Repaci, to have the adhesive element to have lesser width than the width of the plastic strip is noted.

However, this is not found to be persuasive because, in the absence of any showing of criticality, the width of the adhesive being less than that of the strip would have been an obvious matter of design choice to protect the adhesive edges from being contaminated. Further, Applicant should note that Repaci, in col. 6, lines 9-12, states that "Preferably, the width of each of the adhesive areas 20-25 is **substantially** equal to the strip 12 width". Applicant is informed that the phrase "substantially" would include the adhesive strip to have a width that is less than that of the strip. In other words, said phrase does not require that the adhesive must extend all the way to edges of the plastic strips as argued by the applicant.

Contrary to applicant argument about contemplating shipping, it is directed to an intended future use of the strips and is not found to be of positive limitation. Also, said contemplation use could not be located in the claims and cannot be read thereinto for the [purpose of avoiding the applied prior art.

In response to applicant's argument that changing the shape of the adhesive directly affects the amount of adhesion, said aspect could not be located in the applicant and cannot be read thereinto for the purpose of avoiding the prior art. Applicant should note that the specification mentions, in page-8, line 22 to page-9, line-5, that the adhesive elements may take different shapes and configurations which are determined

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essentially by the shape of the rotary cutters. Also, it is mentioned that the adhesive elements can have any configurations desired, depending only on the particular rotary cutters which are used.

With regards to the obviousness rejection, the above explanations apply *a fortiori* for the Repaci reference herein.

Thus, in the absence of any evidence to the contrary, it remains the examiner's position that the claimed invention would have been anticipated or rendered obvious over the prior art of record discussed above.

4. The following are new ground of rejections in view of the amendment.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 5 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller (6840391).

Miller relates to a display strip (110) for displaying a plurality of discrete packages. The strip comprises an elongated narrow backing (111) having a width and having a

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longitudinal axis (figures 5 and 5A), a plurality of adhesive elements (115), each having a width less than the width of the strip and being aligned along the longitudinal axis (figure 5A). The adhesive elements having a predetermined spacing between each two of said elements. The strip is of clear material and has a hole (112) at its top end. As for claim 3, the adhesive coated side is taken to be the coated side of the strip and the uncoated side being the front side of the backing strip (111).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 6-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller

Miller, as discussed above, fails to teach the presence of a second hole at the second end of the strip. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the display strip of Miller with a second hole at the second end for attaching purposes, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claims 6-11, it would have been obvious matter of design choice to modify Miller by providing the adhesive elements to have configurations or shapes such as

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rectangular, triangular, pentagonal, oval, star, etc. for aesthetic appeal because it only requires a mere change in the shape of the element. A change in shape is generally recognized to be within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

As for claim 4, it is well known and conventional in the adhesive tape art to provide it non-adhesive surface with a silicone release coating for facilitating releasability of the tape from a roll or when unrolling.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Nasser Ahmad 12/8/05  
Primary Examiner  
Art Unit 1772

N. Ahmad.  
December 8, 2005.